

SPECIAL TOWN MEETING

October 17, 2005

At a legal meeting of the inhabitants of the Town of Westford, qualified by law to vote in Town affairs, held at the Abbot School on Monday, October 17, 2005, called to commence at 7:30 pm, the following business was transacted:

Election officers, using voting lists, acted as tellers at the doors. Two hundred twenty-eight voters were in attendance as the meeting began.

Ellen Harde, Town Moderator, declared that a quorum was present and called the meeting to order at 7:50 pm.

It was voted unanimously to allow Town employees and consultants who are not residents to address this meeting.

CONSENT CALENDAR

The following four articles were DISMISSED unanimously under a consent calendar:

Article 7: Chapter 90 Appropriation

Article 9: Capital Requests, Various Departments

Article 18: 527 Groton Road Sidewalk Easement

Article 19: Street Acceptance: Trailside Estate

ARTICLE 1. Home Rule Petition to Allow Retired Police Officers to Work Details

It was **VOTED** that the Town authorize the Board of Selectmen to file the following home rule petition with the legislature.

BY HOME RULE PETITION TO THE MASSACHUSETTS LEGISLATURE FOR ENACTMENT:

AN ACT RELATIVE TO THE APPOINTMENT OF RETIRED POLICE OFFICERS IN THE TOWN OF WESTFORD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The manager of the town of Westford may appoint, as he deems necessary, retired Westford police officers as special police officers for the purpose of performing police details or any police duties arising therefrom or during the course of police detail work, regardless of whether or not related to the detail work. The retired police officers must have been regular Westford police officers and retired based on superannuation. The special police officers shall be subject to the same maximum age restriction as applied to regular police officers under chapter 32 of the General Laws. A special police officer must pass a medical examination, by a physician or other certified professional chosen by the town, to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws or to section 99A of chapter 41 of the General Laws.

SECTION 3. Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the town of Westford.

SECTION 4. Special police officers shall be appointed for an indefinite term, subject to removal by the town administrator at any time with 14 days written notice. Upon request, the town administrator shall provide the reasons for removal in writing.

SECTION 5. Special police officers shall also be subject to the rules and regulations, policies and procedures and requirements of the town administrator and the chief of police of the town of Westford, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Special police officers shall not be subject to section 96B of chapter 41 of the General Laws.

SECTION 6. Special police officers shall be sworn before the town clerk of the town of Westford who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to section 100 and section 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as special police officers less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving a town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided herein to special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant thereto.

SECTION 8. Appointment as a special police officer shall not entitle any individual appointed as such to assignment to any detail.

SECTION 9. Retired Westford police officers, serving as special police officers under this act shall be subject to the limitations on hours worked and on payments to retired town employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

SECTION 10. This act shall take effect upon its passage.

*Selectmen recommend approval
Finance Committee recommends approval*

ARTICLE 2. Home Rule Petition to Revise Effective Dates of Elected Boards or Committees

A **MOTION** was made and seconded to authorize the Board of Selectmen to file the following home rule petition with the legislature.

BY HOME RULE PETITION TO THE MASSACHUSETTS LEGISLATURE FOR ENACTMENT:

AN ACT AUTHORIZING THE TOWN OF WESTFORD TO CHANGE THE COMMENCEMENT AND EXPIRATION DATES OF ELECTED OFFICIALS' TERMS OF OFFICE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the term of office for all elected officials in the Town of Westford shall begin at noon on the day after the final adjournment of the

Annual Town Meeting following their election, and the term shall end on noon of the day after the final adjournment of the Annual Town Meeting in the final year of the term of office.

SECTION 2. The Town of Westford Bylaws shall be amended so that the following sentence is added to Section 51.1.A: “ The terms of officials chosen at this election shall begin on noon of the day after the final adjournment of the Annual Town Meeting following the election and end on noon of the day after the adjournment of the Annual Town Meeting in the final year of the term.”

SECTION 3. This act shall take effect upon its passage.

The motion **FAILED** for lack of majority.

Selectmen Recommend Approval

ARTICLE 3: Compensation Plan Amendment

It was **VOTED** that the Town amend the Play Classification Plan for non-unionized municipal employees, effective November 1, 2005 by creating the following new position: and to add the said position to the Play Classification Plan.

Job Title/Position	Band	Min	Mid	Max
<i>Database Manager</i>	<i>Band 4</i>	<i>\$42,750</i>	<i>\$51,062</i>	<i>\$61,157</i>

Selectmen Recommend Approval

It was then **VOTED** to take Article 11 out of order to be discussed with Article 4. The vote under Article 11 follows the vote under Article 4.

ARTICLE 4. FY 2006 Budget Adjustments

It was **VOTED** that the Town raise and appropriate the sum of SIX HUNDRED FIFTY EIGHT THOUSAND EIGHT HUNDRED THIRTY FIVE (\$658,835.00) DOLLARS in order to supplement the following Fiscal Year 2006 Operating Budgets:

Dept. 131 Finance Committee, Reserve Fund	\$252,472.00
Dept. 155 Technology, Personal Services	40,000.00*
Dept. 305 Westford Public Schools	247,263.00
Dept. 510 Board of Health, Personal Services	14,100.00**
Dept. 911 Employee Benefits & Insurance	105,000.00***

And further that the Town appropriate from Ambulance Enterprise Free Cash the sum of SIX THOUSAND FOUR HUNDRED (\$6,400.00) DOLLARS in order to supplement the following Fiscal Year 2006 Operating Budget:

Department 230 Ambulance Enterprise Fund, Expense

*It was VOTED to amend the motion of \$52,500 to \$40,000 to prorate the annual salary of a Database Manager for the remainder of the fiscal year.

**It was VOTED to add \$14,100 to increase the hours for the public nurse from 15 to 30 hours per week

***It was VOTED to increase the employee benefits by \$5,000 to add coverage for the public nurse.

Selectmen Recommend Approval

Finance Committee Recommends Approval except Dept. 155 Technology

ARTICLE 11. Reduce Amount Raised by Taxes in FY2006

It was **VOTED** that the Town direct the Assessors to take the following available funds to reduce the net amount to be raised for Fiscal Year 2006:

\$ 66,892.08	From Fund Balance Designated for Debt Service
\$203,590.72	From Fund Balance Designated for Debt Exclusion Reduction
\$2,416,251.00	From Free Cash*

*Amount was determined by the vote under Article 4.

*Selectmen Recommend Approval
Finance Committee Recommends Approval*

ARTICLE 5. FY2006 Budget Transfers

It was **VOTED** unanimously that the Town transfer the sum of FORTY FOUR THOUSAND TWO HUNDRED FORTY SIX (\$44,246.00) DOLLARS from Department 310 Nashoba Valley Technical High School to the following Fiscal 2006 accounts in the following amounts:

Dept. 131 Finance Committee Reserve Fund	\$ 22,528.00
Dept. 155 Technology, Expense	8,720.00
Dept. 161 Town Clerk, Personal Services	1,063.00
Dept. 174 Planning Board, Expense	3,500.00
Dept 539 Adult Supportive Day, Personal Svcs	2,197.00
Dept 540 Senior Center, Personal Services	1,741.00
Dept. 541 Council On Aging, Personal Services	4,497.00

*Selectmen Recommend Approval
Finance Committee Recommends Approval*

ARTICLE 6. Community Preservation Funds Appropriation

It was **VOTED** unanimously that the Town, pursuant to Mass. Gen. Laws c. 44B, in accordance with the recommendations of the Westford Community Preservation Committee, appropriate from Community Preservation Undesignated Fund Balance the sum of \$2,133,654 (TWO MILLION ONE HUNDRED THIRTY THREE THOUSAND SIX HUNDRED FIFTY FOUR DOLLARS) or some other sum, as follows:

\$1,500,000	Towards the purchase of East Boston Camps.	<i>Open Space and Recreation</i>
\$120,000	For pre-development site studies for the evaluation, creation, and development of affordable housing in Westford.	<i>Affordable Housing Committee-Community Housing</i>
\$190,000	To assist the Conservation Commission in the facilitation of and the actual purchase of land.	<i>Conservation Commission-Open Space</i>

\$2,750	For the restoration and preservation of historic grave markers in Westford's historic cemeteries.	<i>Parks, Recreation, and Cemetery Department-Historic Preservation</i>
\$100,577	To fund the balance for Community Housing.	<i>Community Housing Reserve</i>
\$217,827	To fund the balance for Historic Resources.	<i>Historic Resources Reserve</i>
\$2,500	To the Community Preservation Committee for administrative expenses (administration expenses need to be appropriated annually. Any unused funds are returned to the undesignated community preservation balance).	<i>Community Preservation Committee</i>

*Selectmen Recommend Approval
Finance Committee Recommends Approval*

ARTICLE 7. Chapter 90 Appropriation

This article was **DISMISSED** under the Consent Calendar.

ARTICLE 8: Acceptance of Land in Lieu of Taxes: Map 7-65 and Map 7-64, Overlook Circle

It was **VOTED** unanimously that the Town, pursuant to Mass. Gen. Laws c. 60 s. 77C and Mass. Gen. Laws c. 40, s. 8C, accept from Townsend Gardens Inc. and George Georges in lieu of foreclosure and for conservation purposes a deed to certain parcels of land comprising approximately 2.0 acres located off Mark Vincent Drive and identified as being shown as parcels 64 and 65 on Westford Assessors' map number 7 and further identified as being shown Lots 45 and 46 on Land Court Plan 18427-M; said land to be under the care and custody of the Conservation Commission for the protection of the natural and watershed resources of the Town.

*Selectmen Recommend Approval
Finance Committee Recommends Approval*

ARTICLE 9. Capital Requests, Various Departments

This article was **DISMISSED** under the Consent Calendar.

It was **VOTED** to take Article 14 out of order so that it could be discussed with Article 10 and voted following the vote under Article 10.

ARTICLE 10. Clarify STM 2004 Senior Center Capital Appropriation

It was **VOTED** unanimously that the Town clarify the action taken under Article 10 at the Special Town Meeting of October 18, 2004 by authorizing the Board of Selectmen to expend FIFTY THOUSAND (\$50,000.00) DOLLARS for a feasibility study for the siting of a new senior center and/or expansion of the current site.

Mr. Shaffer requested that the Historical Commission have input into the feasibility study if the Cameron Senior Center is expanded because it is an historic building.

*Selectmen Recommend Approval
Finance Committee Recommends Approval*

ARTICLE 14. Transfer of Care and Custody of a Portion of Cameron School Conservation Land from the Conservation Commission to the Council on Aging

It was VOTED by a two-thirds majority that the Town, pursuant to MGL Chapter 40, S. 15A, transfer from the Conservation Commission to the Council on Aging, the care, custody and control of, and to change the use thereof for expansion of the Cameron Senior Center, the land currently under the care and custody of the Conservation Commission located southerly of, but not abutting Pleasant St. identified as being a portion of that land being shown as Parcel 91 on Westford Assessors' Map Number 53; and further identified as being that land shown as "Parcel "A"" on a plan of land entitled "Plan of Land in Westford, MA. Prepared for Westford Conservation Commission" dated August 14, 1991 by Richard L. McGlinchey; and

And that the Town, in order to meet the intent of Article 97 of the Massachusetts Constitution, transfer, from the Board of Selectmen to the Conservation Commission, the care and custody and control of land located at the end of Bradford St. identified as that land being shown as Parcel 2 on Westford Assessors' Map Number 52, and further identified as being that land shown as "Lot B" on a plan of land entitled "Plan of Land in Forge Village, Westford, Mass. Belonging to Abbot Worsted Company", dated January 31, 1956 by Frederick Burne and recorded at the Middlesex North District Registry of Deeds at Book of Plans 87, Plan 59A (sometimes referred to as the "Indian Meeting Ground" parcel); and

And that the Town transfer, from the Tax Possession Sale Committee to the Conservation Commission, the care and custody and control of land located westerly of Brookside Road identified as being that land shown as Parcels 5 and 50 on Westford Assessors' Map Number 67, and further identified as being a portion of that land being shown as "Lot No. 1" on a plan of land entitled "Plan of Land in Brookside, Westford, Mass." dated February, 1905 by Smith and Brooks, Civil Engineers and Recorded at the Middlesex North District Registry of Deeds at Book of Plans 21, Plan 49A;

All actions to be conditional upon authorization from the Massachusetts Department of Environmental Protection and the Massachusetts Legislature, the General Court; and

That the Town authorize the Board of Selectmen to file special legislation with the General Court authorizing the transfer from the Conservation Commission to the Council on Aging, the care, custody and control of and the change of use thereof from conservation to the expansion of the Cameron Senior Center, the land currently under the care and custody of the Conservation Commission located southerly of but not abutting Pleasant St., identified as being a portion of that land being shown as Parcel 91 on Westford Assessors' Map 53, and further identified as being that land shown as Parcel "A" on a plan of land entitled "Plan of Land in Westford, MA. Prepared for Westford Conservation Commission" dated August 14, 1991 by Richard L. McGlinchey; on condition that the above referenced parcels are transferred to the care, custody and control of the Conservation Commission.

Except that, the entire vote under this article 14 is contingent upon the Permanent Town Building Committee's feasibility study finding that the Senior Center should be relocated and/or expanded to the Conservation Commission parcel A referenced in the first paragraph of this motion; in the event that said finding is made by the said committee then this vote shall take effect upon the receipt by Board of Selectmen of said finding.

Selectmen Recommend Approval

ARTICLE 11 was taken out of order following Article 4.

The presence of a quorum was questioned prior to the vote under Article 12. There were at least 200 voters counted present and the meeting continued.

ARTICLE 12. Rezoning 8 Carlisle Road from Residential A to Commercial Highway

A **MOTION** was duly made and seconded and was amended by a majority to include only the applicant's lot identified as parcel 17-29 on the Assessors Map of Westford. It was therefore **VOTED** by a two-thirds majority counted vote (131 ayes to 64 nays) that the Town amend its Zoning Bylaw and in connection therewith to amend its Zoning Map adopted May 6, 1978 and on file in the Office of the Town Clerk, to extend the "Commercial Highway" zone from the corner of the zone at Carlisle Road to include the lot shown on Westford Assessors map as parcel 17-29.

*Selectmen Recommend Approval 3-2
Planning Board Recommends Against Approval*

ARTICLE 13. Telecommunications Antenna, 17 Main Street

It was **VOTED** unanimously that the Town authorize the Board of Water Commissioners, pursuant to Mass. Gen. Laws c. 40, s. 3 and 4 to enter into a lease for certain Town of Westford owned property at 17 Main Street identified as Westford Assessors Map 55, Parcels 2 and 3 and Assessors Map 21, Parcel 42; said lease to be for the purposes of constructing and maintaining a telecommunications facility on the existing water tower on said property as well as for access to and from said water tower and for constructing and maintaining utilities appurtenant to the telecommunications facility; said lease to be awarded pursuant to a Request for Proposals and to be upon such terms and for such length of time as the Board of Water Commissioners deems proper.

ARTICLE 14 was taken out of order following Article 10.

ARTICLE 15. Transfer of Title of Land, portion of Parcel 6-Map 51 on Concord Road and Beaver Brook Road

It was **VOTED** unanimously that the Town authorize the Tax Possession Sale Committee to transfer for no consideration/nominal consideration, any and all right, title and interest that the Town of Westford may have arising out of an Instrument of Taking dated October 4, 1967 and recorded in the Middlesex North District Registry of Deeds in Book 1817, Page 262, in a portion of the land on Concord Road and Beaver Brook Road, shown as Parcel 6 on the Town of Westford Assessors' Map 51, to Linnea S. Flint of 4 Beaver Brook Road.

Selectmen recommend approval

ARTICLE 16. Stony Brook School Electric Easement

It was **VOTED** unanimously that the Town authorize the Board of Selectmen, pursuant to Mass. Gen. Laws c. 40 s. 3 to grant an easement to Massachusetts Electric on the Stony Brook middle school land at 9 Farmers Way for the operation and maintenance of utility lines located above and below ground as well as any and all other items under Massachusetts Electric control.

Selectmen recommend approval

ARTICLE 17. 508 Groton Road Sidewalk Easement

It was **VOTED** unanimously that the Town authorize the Board of Selectmen, pursuant to Mass. Gen. Laws c. 40 s. 3, to acquire by gift or purchase a perpetual sidewalk easement on the land located at 508 Groton Road (shown as Parcel 11-1 Map 46 of the Town of Westford Assessors' Map) for the purpose of construction, maintenance, improvement, and reconstruction of sidewalks on Groton Road; and for all other purposes commonly associated with sidewalk easements in the Town of Westford.

Selectmen recommend approval

ARTICLE 18. 527 Groton Road Sidewalk Easement

This article was **DISMISSED** under the Consent Calendar.

ARTICLE 19. Street Acceptance: Trailside Estate

This article was **DISMISSED** under the Consent Calendar.

ARTICLE 20. Change Portion of Farmer's Way to Freedom Drive

A **MOTION** was made and seconded to change a portion of the street name from "Farmer's Way" to "Freedom Drive"; the portion of roadway to be renamed from Farmer's Way to Freedom Drive is from the existing intersection with Groton Road (Route 40) heading southerly for a distance of approximately 1547 feet to the first intersecting driveway on the easterly side of the roadway. The remainder of the roadway will remain as Farmer's Way.

The motion **FAILED** for lack of majority.

Selectmen recommend against approval 3-2

ARTICLE 21. Town Report Printing on Fiscal Year

It was **VOTED** unanimously to DISMISS this article.

ARTICLE 22. Review of the Public Health Regulations to Amend Bylaws Relating to Non-criminal Disposition Violation

It was **VOTED** that the Town amend CHAPTER 1 sec 1.4 GENERAL BYLAW OF THE TOWN OF WESTFORD MASSACHUSETTS titled non criminal disposition as follows:

- a) Rephrase Section 11c which currently reads:

Board of Health Regulation	Offense	Enforcing Person	Offense	Fine
§ 11c	Violation of regulation on the sale of tobacco products to minors by employee	Board of Health	1st and each subsequent offense	\$300

To read as follows:

Board of Health Regulation	Offense	Enforcing Person	Offense	Fine
§ 11c	Violation of regulation on the sale of tobacco products to minors by employee	Board of Health	1st and each subsequent offense	\$200

b) Rephrase Section 11a which currently reads:

Board of Health Regulation	Offense	Enforcing Person	Offense	Fine
§ 11a	Regulation on smoking in a non-smoking area	Board of Health	1st offense	\$25
			2nd offense	\$50
			Subsequent offenses	\$100

To read as follows:

Board of Health Regulation	Offense	Enforcing Person	Offense	Fine
§ 11a	Regulation on smoking in a non-smoking area	Board of Health	1st offense	\$100
			2nd offense	\$200
			Subsequent offenses	\$300

c) Insert the following new SECTION 14A VIOLATION OF REGULATIONS BY PROPRIETORS OR MANAGERS OF THE SMOKE FREE WORKPLACE LAW to read as follows:

Board of Health Regulation	Offense	Enforcing Person	Offense	Fine
§ 14a	Violation of Regulations by proprietors or manager of the smoke-free workplace law	Board of Health	1st offense	\$200
			2nd offense	\$200
			Subsequent offenses occurring within two years of second violation	\$300

Selectmen Recommend Approval

The presence of a quorum was again questioned at 11:30 pm.

The Moderator determined that a 200 voter quorum was not present and it was VOTED to adjourn the Meeting to a time certain on Tuesday, October 18th at 7:00 pm.

On October 18th when the quorum could not be obtained by 7:15pm, it was VOTED to adjourn Town Meeting and no action will be taken on the remaining articles 23 and 24.

A true copy attest,

Kaari Mai Tari
Town Clerk